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Attorney for Glenio Silva

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Vs.

GLENIO JESUA FERREIRA SILVA,

Defendant.

) No. CR-07-00678-JSW

) DECLARATION OF STEVEN F. GRUEL IN
) SUPPORT OF DEFENDANT GLENIO
) SILVA'S MOTION TO SUPPRESS
) STATEMENTS

) Honorable Jeffrey S. White

) Hearing: August 21, 2008 @ 2:30 p.m.

I, STEVEN F. GRUEL, declare as follows:

1. I make this declaration in support of defendant Glenio Silva's Motion To Suppress
Statements for Violations of the 5th Amendment's Right Against Self-Incrimination.

2. I have reviewed the government's discovery in this case. Attached hereto and fully
incorporated herein as Exhibit A is the government's June 16, 2007 Record of Sworn Statement
with the Discovery Bates Number OPPH02458 – OPPH02465. I highlighted sections of this

DECLARATION OF STEVEN F. GRUEL IN SUPPORT OF GLENIO SILVA'S MOTION TO SUPPRESS STATEMENTS

1 document in order for the Court to easier locate certain sections mentioned in the defense motion
2 to suppress.

3 3. From my review of the discovery it does not appear that Mr. Silva was offered or
4 provided with a Portuguese interpreter when he was interrogated by ICE agents.

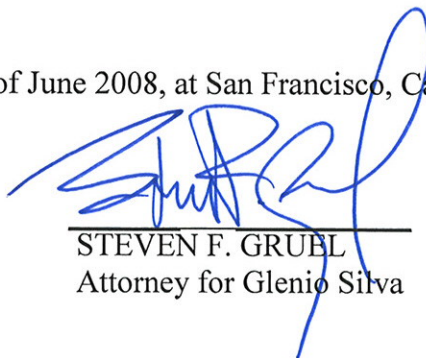
5 4. Mr. Silva does not speak English fluently. Although I can communicate with Mr. Silva in
6 English, Portuguese interpreters have been necessary in Court in order for Mr. Silva to fully
7 understand, comprehend and communicate what is taking place during these proceedings. As
8 another example, the hearing before the Labor Commissioner for the California Department of
9 Labor, on a claim for money which was initiated by the government's informant, was postponed
10 on one occasion because a Portuguese interpreter failed to appear for the hearing. When the
11 hearing did take place, the Portuguese interpreter was present. Finally, often I have had
12 difficulty communicating aspects of the case to Mr. Silva and, consequently, have had to talk
13 with Mr. Silva's wife in order for her to communicate and/or translate the information to Mr.
14 Silva.

15 5. To my knowledge, Mr. Silva has little or no experience with the criminal justice system.

16 I declare under penalty of perjury that the foregoing is true and correct to the best of my
17 personal knowledge.

18 Executed this 29th day of June 2008, at San Francisco, California.

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STEVEN F. GRUEL
Attorney for Glenio Silva

EXHIBIT A

UNITED STATES DEPARTMENT OF HOMELAND SECURITY
IMMIGRATIONS AND CUSTOMS ENFORCEMENT

RECORD OF SWORN STATEMENT

Office: SFR File Number: A 79 C28 043
Statement by: Glenio Jesus Ferreira Silva
In the case of: _____
At: 630 Sansome St., 6th Fl., San Francisco Date: 16 JUN 07
Before: SA Mike Brown & Cheryl Peterson
In the English Language. Used
Interpreter _____

I am an officer of United States Immigration and Customs Enforcement, authorized by law to administer oaths and take testimony in connection with the enforcement of the Immigration and Nationality laws of the United States. I desire to take your sworn statement regarding:

Eu sou um oficial da imigracao dos Estados Unidos, autorizados pela lei para administrar juramentos de tomar depoimentos em relação a execucao das leis de imigracao e da nacionalidade dos Estados Unidos. Eu desejo tomar o seu depoimento em relacao:

Your immigration status, current employment and identity documents.

Sua situacao imigratoria, trabalho atual e documentos de identidade.

Before we ask you any questions, you must understand your rights.
Antes que nós lhe façamos qualquer pergunta, você deve compreender seus direitos.

You have the right to remain silent.
Você tem o direito de ficar em silencio.

OPPH02458

Anything you say can be used against you in court, or any immigration or administrative proceedings.
Qualquer coisa que você disser, pode ser usado contra voce em corte, ou em qualquer procedimento de imigracao ou administrativo.

You have the right to talk to a lawyer for advice before we ask you any questions and to have him with you during questioning.
Você tem o direito de falar com um advogado para se aconselhar antes que nós lhe façamos qualquer pergunta e de tê-lo com você durante as perguntas.

If you cannot afford a lawyer, one will be appointed for you before questioning, if you wish.
Se você tiver recursos para um advogado, um sera apontado para você antes das perguntas, se você desejar.

If you decide to answer questions now without a lawyer present, you will still have the right to stop answering at any time. You also have the right to stop answering at any time until you talk to a lawyer.
Se você decidir responder as perguntas agora, sem um advogado presente, você ainda tem o direito de parar de responder a qualquer hora. Você também tem o direito de parar de responder a qualquer hora até que você fale com um advogado.

Initials (Inicial) GS

①

Sheet. 12:50

6/16/2007

1. What's your name?

A. Glenio Jesus F. Silva.

2. What's your DOB?

A. Sept 2, 1968

3. Where were you born?

A. D.F. (Brasilia), Brazil.

4. When did you come to us first?

A. Went to Whittier about 1990. For agriculture job training.

5. What's your current imm. status?

A. Have a green card.

6. Where do you work?

A. In my business. My 2 pizzerias.

7. Is one named Monterey Pizza on Monterey Blvd. in San Francisco?

A. Yes

8. What's the name of the 2nd pizzeria?

A. Pizza House

9. Where is that located?

A. Hayward Calif.

Are you the owner?

A. Yes.

OPPH02459

2

11. How long have you owned the Pizzerias?

A. Monty Pizza about 10 years. Howard Pizza house about 3 years.

12. Does anyone else own the 2 businesses.

A. Yes, I have help ... people who finance. They help me.

13. They don't work @ the locations?

A. No.

14. Do you hire the employees?

A. Two people work at Monty Pizza.

15. Did you hire the two people at Monty?

A. Yes.

16. Are there others who work there

A. I work there and ~~that~~ we are having a problem w/ another kid going to school

17. What are the names of the two employees we brought in today?

A. Fabio and I don't remember the name of the other kid. Like I said we hired him now.

OPPH02460

(3)

18. You mean you hired him recently?

A. Yes

19. What ~~kind~~²³ kinds of ID did he show you when you hired him?

A. Today was the day I was going to talk to him. I'm not lying. I don't even know his name. The week before I was at Hayward.

20. Had you talked with him before?

A. No

21. When was he hired?

A. Maybe less than one week. This is the problem. One day someone works for you. The next day they don't call or show up. They don't say anything.

22. Has the new guy been paid yet?

A. I need to talk to Fabio to find out.

23. When was Fabio hired?

A. About one year.

24. Did you hire him?

A. No. That time I used to have a manager.

OPPH02461

9

he used to take care of everything.

Has been gone for about 4 months. The business doesn't generate enough money.

26. Since the manager left about 4 months ago, you've managed the Monterey pizza store?

Yes. He left about 4 months ago. To be honest, I'm just lost in time.

Is this because they are illegal. I see you're immigration and I set the point.

Q. Is Fabio here illegally?

A: Yes. You arrested him.

27. What do you think?

A. You already booked him. I'm not going to say something you don't already know.

28. Did you check his immigration status when hiring him?

A. No.

Q. So you never asked him about his immigration status?

A. No. I never asked him.

OPPH02462

30. Do you have I-9 forms for your employees? It's a form where an employee shows you identification and helps determine if they can work in the USA? (5)

A. No. I don't have them. I don't know if this is going to complicate my life. It's your judgement.

When I came to this country, I came here for job training. Something bad happened at home so I stayed. Then I met my wife, so I needed a job. So I started making pizzas. I had to feed my two children. I don't know about these big problems like buildings blowing up. I'm just ~~try~~^{try} trying to feed my children.

Maybe everything in Syria will put me in jail, but I'm not a terrorist. You eat in the city. You know who works in the restaurants and hotels.

OPPH02463

maybe I was born in the wrong
 part of the world where people make
 divisions. I'm getting emotional and ~~worrying~~
 worrying about my kids. (6)

31. How did you pay your employees?

A. I paid them in cash.

32. How often?

A. Usually at the end of the day.

33. Did you arrange for these housing?

A. I think some of these I might
 want a lawyer. I'm asking you. What
 do you think is best.

- I can't recommend that you have a lawyer
 or not. It's your decision. It's a personal
 decision. You do have a right to
 a lawyer as I explained and when you
 read your rights.

A. But I don't know how this thing works.
 I've never had a lawyer.

⑦

- Note - agent re-read Miranda.

explained line-by-line (again)

subject requested lawyer.

- Ask Q. spontaneously.

- You say want to get a transcript?
what's the point?

Q. You know there are rules about hiring people who
are allowed to work here. Do you think
that could be a problem?

A. Yeah.

Q ok, I'm going to finish the interview b/c
you requested a lawyer.

end 1:45 am

6/16/2007

OPPH02465

Sworn Statement Re:

Date:

Do you have anything else to add?

Voce tem alguma coisa a mais para acrescentar?

I have read the foregoing (or it has been read to me in the Portuguese language) and solemnly swear it is the true and correct record of the statement made by me on this day and that all the statements are true and correct, to the best of my knowledge and belief.

Eu li o antecedente (ou me leram na lingua Portuguesa) e eu juro que o registro do depoimento feito por mim neste dia, e todos os depoimentos sao verdadeiros e corretos ao melhor de meu conhecimento e opiniao.

Subject requested lawyer / Refused to sign

Signature (assinatura)

Date and time (data e hora)

Signature of Officer (Assinatura do oficial)

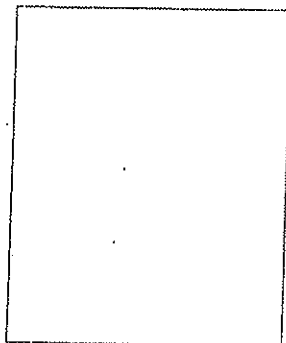
S/A 6/16/2007

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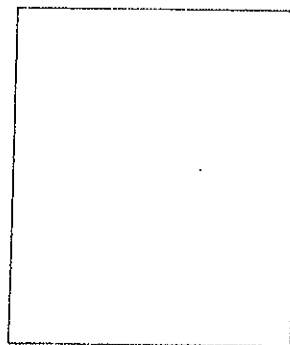
Signature of Witness (Assinatura da testemunha)

G/S 6/16/07

Title (Titulo)



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OPPH02466